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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,597	02/27/2004	Kirt Martin	STE01 P-1158	9061
277 7590 10/22/2007 PRICE HENEVELD COOPER DEWITT & LITTON, LLP 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501			EXAMINER HAWK, NOAH CHANDLER	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 10/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/789,597

Applicant(s)

MARTIN ET AL.

Examiner

Noah C. Hawk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) 20-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. In view of the appeal brief filed on 7/19/07, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

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DAVID DUNN  
SUPERVISORY PATENT EXAMINER

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 states that the second flange is telescopingly received within the first flange, but Claims 14-16 proceed to define the first

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flange as being received within the second flange. For the purposes of examination, the first and second flanges will be taken to have the same arrangement as in Claims 1-11: the first flange will have two portions and will be received within the second flange, the second flange having three portions.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 8, 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Long in US Patent 3000681.

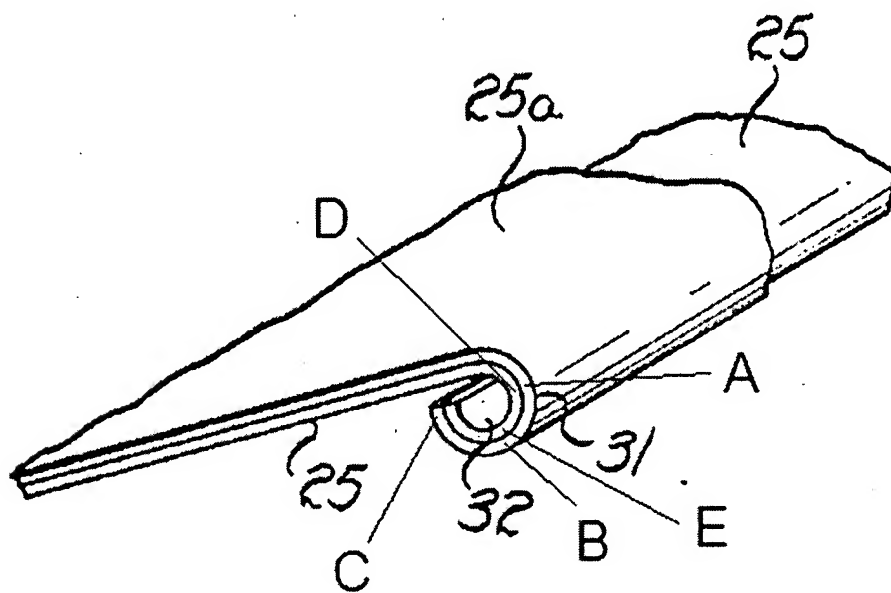
a. Regarding Claim 1, Long discloses a "privacy screen" (the fact that the device provides a means for concealing the knees and legs of the user of the desk is considered sufficient to consider this a privacy screen, insofar as it is defined by the applicant) comprising a first member (22) having a generally planar first portion (25), a first flange (32) and a first end (including 24 and 33) adapted to be secured to a desk assembly, a second member (22a) having a generally planar second portion (25a), a second flange (31) configured to telescopingly receive the first flange therein such that the first and second planar portions are substantially proximate, and a second end (including 24a and 34) adapted to be secured to the desk assembly, wherein the first and second

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members are telescopingly adjustable with respect to one another allowing adjustment of an overall length of the privacy screen extending between the first and second end.

b. Regarding Claim 2, Long teaches that the first flange is substantially C-shaped (See Figure 5).

c. Regarding Claim 3, Long teaches that the second flange (31) includes a first portion (A) extending from and substantially orthogonal to the planar second portion, a second portion (B) orthogonal to the first portion and a lip portion (C) extending toward the planar portion.



Long, Figure 5

- d. Regarding Claims 4 and 9, Long teaches that the second flange is substantially C-shaped (See Figure 5).
  - e. Regarding Claim 5, Long teaches that the first flange (32) includes a first portion (D) extending orthogonal to the planar portion of the first member, a second portion (E) extending substantially orthogonal from the first portion and wherein the second portion of the first flange is telescopingly received between the second and lip portions of the second flange (portion E is situated substantially between portions B and C).
  - f. Regarding Claim 6, Long teaches that the first member includes an upper flange (23) and the second member includes an upper flange (23a), wherein the upper flanges are substantially proximate to one another.
  - g. Regarding Claim 8 and 11, Long teaches that the first and second ends include an end flange (33 and 34, resp.) that include apertures (See Figure 6) to receive fasteners (37) for securing the screen to a desk.
6. Claims 12-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Long in US Patent 3000681.
- h. Regarding Claim 12, Long teaches a desk assembly comprising a worksurface (12) a first supporting member (16) and a second supporting member (17). Long further discloses a "privacy screen" (the fact that the device provides a means for concealing the knees and legs of the user of the desk is considered sufficient to consider this a privacy screen, insofar as it is defined by the applicant) comprising a first member (22) having a generally planar first

portion (25), a first flange (32) and a first end (including 24 and 33) adapted to be secured to the first supporting member (16), a second member (22a) having a generally planar second portion (25a), a second flange (31) configured to telescopingly receive the first flange therein such that the first and second planar portions are substantially proximate, and a second end (including 24a and 34) secured to the second supporting member (17), wherein the first and second members are telescopingly adjustable with respect to one another allowing adjustment of an overall length of the privacy screen extending between the first and second end.

i. Regarding Claim 13, Long teaches that the first flange is substantially C-shaped (See Figure 5).

j. Regarding Claim 14, Long teaches that the second flange (31) includes a first portion (A) extending from and substantially orthogonal to the planar second portion, a second portion (B) orthogonal to the first portion and a lip portion (C) extending toward the planar portion.

k. Regarding Claim 15, Long teaches that the second flange is substantially C-shaped (See Figure 5).

l. Regarding Claim 16, Long teaches that the first flange (32) includes a first portion (D) extending orthogonal to the planar portion of the first member, a second portion (E) extending substantially orthogonal from the first portion and wherein the second portion of the first flange is telescopingly received between

the second and lip portions of the second flange (portion E is situated substantially between portions B and C).

m. Regarding Claim 17, Long teaches that the first member includes an upper flange (23) and the second member includes an upper flange (23a), wherein the upper flanges are substantially proximate to one another.

n. Regarding Claim 19, Long teaches that the first and second ends include an end flange (33 and 34, resp.) that include apertures (See Figure 6) to receive fasteners (37) for securing the screen to the first and second support members.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Long, as applied to Claim 6 above in view of Alexander in US Patent 4145098. Long fails to teach apertures in the upper flange. Alexander teaches a privacy screen (4) having an upper flange (16) with an aperture (34) for receiving a fastener for securing the screen to a desktop (12). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Long by adding an aperture in one of the upper flanges in order to more securely fasten the device to the desk.



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9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Long, as applied to Claim 1 above in view of Alexander in US Patent 4145098. Long teaches that the first member includes an upper flange (23) and the second member includes an upper flange (23a), but fails to teach apertures in the upper flange. Alexander teaches a privacy screen (4) having an upper flange (16) with an aperture (34) for receiving a fastener for securing the screen to a desktop (12). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Long by adding an aperture in one of the upper flanges in order to more securely fasten the device to the desk.

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Long, as applied to Claim 12 above in view of Alexander in US Patent 4145098. Long teaches that the first member includes an upper flange (23) and the second member includes an upper flange (23a), but fails to teach apertures in the upper flange. Alexander teaches a privacy screen (4) having an upper flange (16) with an aperture (34) for receiving a fastener for securing the screen to a desktop (12). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Long by adding an aperture in one of the upper flanges in order to more securely fasten the device to the desk.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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DAVID DUNN  
SUPERVISORY PATENT EXAMINER